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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/595,893	06/20/2000	Jean-Rene' Lequepeys	034299-259	5767

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EXAMINER

MUNOZ, GUILLERMO

ART UNIT	PAPER NUMBER
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2634

DATE MAILED: 06/17/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/595,893

Applicant(s)

LEQUEPEYS ET AL.

Examiner

Guillermo Munoz

Art Unit

2634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-17 and 19 is/are rejected.
- 7) ☒ Claim(s) 2,4 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                     | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 5-7 and 16-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki et al..

#### Regarding Claim 1

##### Examiner's Interpretation of Claim 1:

The data, divided into N data blocks, is interpreted to mean dividing a received serial bit stream into two or more sets of words, characters, or digits that are processed as a unit. M-ary orthogonal keying modulation is interpreted as a technique used in spread spectrum communications where one spreading function, orthogonal to any other function used, is phase modulated on a signal.

##### Prior Art:

Suzuki et al. disclose all the subject matter claimed as follows: Suzuki et al. teach a transmission system having a serial data input (element S40 of figure 16) input into transmitter 55 where it is divided into three streams. (note par. 0175) Suzuki et al. teach an spread-code multipliers (52A-52D of figure 16) for spreading the parallel bit streams followed by summing unit (element 53 of figure 16) for combining the parallel spread

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signals. Furthermore, Suzuki et al. teach the reception side of the communication system having the inverse process of the transmitter in figure 16, note paragraph 0006.

Regarding Claim 3

Suzuki et al. further teach the claimed subject matter in paragraph 0014.

Regarding Claim 5

Suzuki et al. further teach the claimed subject matter in paragraph 0010.

Regarding Claim 6

Suzuki et al. further teach the claimed subject matter in paragraph 0011.

Regarding Claim 7

Suzuki et al. further teach the claimed subject matter in paragraph 0010.

Regarding Claim 16, see claim 5.

Regarding Claim 17, see claim 6.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8-15 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 comprises both product and process limitations. "The claim does not provide competitors with an accurate determination of the Metes and Bounds of protection involved so

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that an evaluation of the possibility of infringement may be ascertained with a reasonable degree of certainty.”(Lyell 17 USPQ2d 1548, Bd. Pat. App. & Inter. 1990)

Claims 9-11 are dependent on rejected claim 8 and are rejected under 35 U.S.C. 112, second paragraph.

Claim 12 comprises both product and process limitations. “The claim does not provide competitors with an accurate determination of the Metes and Bounds of protection involved so that an evaluation of the possibility of infringement may be ascertained with a reasonable degree of certainty.”(Lyell 17 USPQ2d 1548, Bd. Pat. App. & Inter. 1990)

Claims 13-15 are dependent on rejected claim 12 and are rejected under 35 U.S.C. 112, second paragraph.

In claim 19 the variable “P” in line 1 is critical or essential to the practice of the invention, but not defined in the claim(s) and is not enabled by the disclosure.

### ***Claim Objections***

Claim 7 is objected to because of the following informalities: The phrase “to to Claim 1” appears to be a typographical error. Appropriate correction is required.

Claim 2, 4, 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guillermo Munoz whose telephone number is 703-305-4224.

The examiner can normally be reached on Monday-Friday 8:30a.m-4:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on 703-305-4714. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



GM  
June 10, 2004



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